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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/025,505	12/19/2001	James F. McGuckin JR.	1114	6449

7590

07/12/2004

Rex Medical, L.P.
585 County Line Road
Radnor, PA 19087

EXAMINER

KENNEDY, SHARON E

ART UNIT PAPER NUMBER

3762

DATE MAILED: 07/12/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/025,505

Applicant(s)

MCGUCKIN ET AL.

Examiner

Sharon Kennedy

Art Unit

3762

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-18 is/are pending in the application.
4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 1-10 is/are allowed.
- 6) ☐ Claim(s) ____ is/are rejected.
- 7) ☒ Claim(s) 15-18 is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on ____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. ____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date all.
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. ____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: ____.

DETAILED ACTION

The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action or the MPEP.

Specification

The disclosure is objected to because of the following informalities: On page 15, line 5, "32" should be changed to -42-. Appropriate correction is required.

Claim Rejections - 35 USC § 103

Claims 11-14 are rejected under 35 U.S.C. 103(a) as being unpatentable over Moureau, "Modified Seldinger Insertion Technique..." in view of Luther, US 4,668,221. Claims 11-14 are identical to the instant claims except that Moureau does not disclose inserting a stiffening member through the lumen of the catheter before advancing it over the guidewire. Luther exemplifies that stiffening members for catheters are well known and assist the insertion of the catheters into a patient. It would be obvious to one of ordinary skill in the art to use the Luther stiffening member with the modified Seldinger technique illustrated by Moureau so that the catheter is threaded more easily onto the guidewire.

Allowable Subject Matter

Claims 1-10 are allowed.

Claims 15-18 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

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The following is a statement of reasons for the indication of allowable subject matter: The prior art does not disclose or suggest the instantly claimed method comprising inserting the guidewire into the patient and retracting/retrieving the guidewire through the subcutaneous tissue tunnel utilizing the trocar, or the loop of claim 17, in combination with the other method steps claimed. Marlon, US 4,432,752 discloses using a trocar to make a tunnel and inserting the catheter through the trocar. The use of a guidewire is not disclosed. Sanfilippo, II, US 5,919,160 is distinguished because two guide wires (326, 328) are required. See especially column 9, lines 66+ and figure 12. There is no disclosure of retracting the guidewire through the tissue tunnel as in claims 1 and 8. In addition, this procedure requires the use of the splittable sheath. The problems with this is set forth in this application. See corresponding US 2002/0121282, paragraphs [0023-0024]. Wilson et al., US 6,638,242 discloses a proximal end of the catheter being inserted first, the hub being attached later. Accordingly, none of the prior art discloses or suggests the claimed method steps.

Conclusion

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Twardowski, US 2003/0023198 presents a good discussion of the background techniques of inserting the catheters. Patel, "Sheathless technique..." is similar to the modified Seldinger technique. Other patents of interest are Farrell, US 4,994,027; Makoto, US 5,752,939; Ash et al., US 6,190,349; Jonkman, US 6,120,494; Hicks, US 5,830,196.

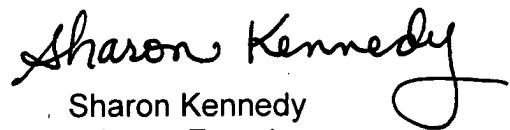
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Contact Information

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Sharon Kennedy whose telephone number is 703/305-0154. The examiner can normally be reached on Monday-Thursday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Angela Sykes can be reached on 703/308-5181. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).


Sharon Kennedy
Primary Examiner
Art Unit 3762

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